IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 1299 of 2005

Between:

P.Rajesham S/o.Jannaiah
Rekonda, Karimnagar District.

..... PETITIONER

AND

The Depot Manager A.P.S.R.T.C Jagityal Depot
Jagityal, Karimnagar District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or directions, more in the nature of writ of Mandamus, declaring the office order No.82/475(1)/94-JGTL Dt.31.12.1994 in imposing the Major punishment of deferment of annual increment for a period of 1 year with cumulative effect as illegal and arbitrary and set aside the same with all consequential benefits including arrears of pay.

Counsel for the Petitioner:MR.P.GOVINDA RAJULU

Counsel for the Respondent No.: SMT.P.RAJANI REDDY

The Court made the following :

O R D E R:

The petitioner is working as a conductor in the respondent-Corporation. He was issued a charge memo on
5-04-1994 and after receiving the explanation final order was passed on 31-12-1994 imposing major penalty of with-holding one annual increment with cumulative effect. The petitioner questioned the said order on the ground that postponing the annual increment without conducting a regular enquiry in the department itself is bad and contrary to the Rules and Regulations.

2. The learned counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab** wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner, therefore seeks to declare the order as illegal and it is liable to be set aside.

3. Therefore, after considering the peculiar facts of the case, the impugned order is

liable to be set aside on account of non-conducting of enquiries and in view of the judgment of the Supreme Court in the decision (cited supra). Under these circumstances, I am of the view that it would be appropriate if the punishment imposed on the petitioner were treated as reduction of one annual increment without cumulative effect. But, the petitioner is not entitled to the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. However, he is entitled to get increments on notional calculation from the date of this order to which he is entitled to, as he had not been imposed penalty of reduction of one annual increment without cumulative effect.

4. The Writ Petition is accordingly disposed of with the above observations. No order as to costs.

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1st February, 2005.

mrb

To

1. The Depot Manager A.P.S.R.T.C Jagityal Depot
   Jagityal, Karimnagar District.

2. Two CD copies.